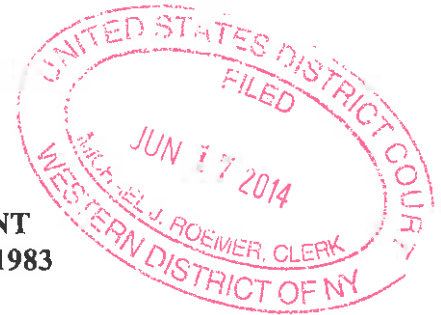


Revised 03/06 WDNV

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)**



All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

(1st Amended Complaint)

A. Full Name And Prisoner Number of Plaintiff: NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Jessie Engles Din # 09A0673

2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. Sgt. Jerry Jones

4. CP. Eric Farly

2. Sgt. Eric Morton

5. CP. Jeffrey Cavalussi

3. CP. Travis Hill

6. CP. Elmer Parish

7. CP. P. Harrison

8. Jane Doe and/or John Doe Nurses of C.N.Y.P.C.

9. Assistant Comm. Mike Rasmus

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Jessie Engles Din # 09A0673

Present Place of Confinement & Address: Five Points Correctional Facility
P.O. Box # 119
Romulus, N.Y. 14541

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: N/A

✓ 0

(Attached Forms For Additional Defendants)

Name of Defendant: Eric Farly
Official Position of Defendant: Correction Officer.
Defendant is Sued in Individual and/or Official Capacity
Address of Defendant: Five Points Correctional Facility
P.O. Box #119, Romulus, NY 14541

Name of Defendant: Jeffrey Cavalluzzi
Official Position of Defendant: Correction Officer
Defendants is sued in Individual and/or Official Capacity
Address of Defendant: Five Points Correctional Facility
P.O. Box #119, Romulus, NY 14541

Name of Defendant: Elmer Parish
Official Position of Defendant: Correction Officer
Defendant is Sued in Individual &/or Official Capacity
Address of Defendant: Five Points Correctional Facility
P.O. Box #119, Romulus, NY 14541

Name of defendant: P. Harrison
Official Position of Defendant: Correction Officer
Defendant is Sued in Individual &/or Official Capacity
Address of Defendant: Five Points Correctional Facility
P.O. Box #119, Romulus, NY 14541

Name of Defendant: Mike Rasmus (Hearing Officer)
Official Position of Defendant: Assistant Commissioner
Defendant is sued in Individual &/or Official Capacity.
Address of Defendant: New York State, Department of
Correction & Community Supervision, 1220 Washington Ave.
Harriman State Campus Building #2, Albany N.Y. 12226

Name of Defendant: Jane Doe or John Doe
Official Position of Defendant: Nurse
Defendant is sued in Individual &/or Official Capacity
Address of Defendant: Central New York Psychiatric Center
P.O. Box #300, Marcy NY 13403

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Jerry Jones

(If applicable) Official Position of Defendant: Sergeant

(If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity

Address of Defendant: Five Points Correctional Facility
P.O. Box #119, Romulus, N.Y. 14541

Name of Defendant: Eric Morton

(If applicable) Official Position of Defendant: Sergeant

(If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity

Address of Defendant: Five Points Correctional Facility
P.O. Box #119, Romulus, N.Y. 14541

Name of Defendant: Travis Hill

(If applicable) Official Position of Defendant: Correction Officer (CO)

(If applicable) Defendant is Sued in ☒ Individual and/or ☐ Official Capacity

Address of Defendant: Five Points Correctional Facility
P.O. Box #119, Romulus, N.Y. 14541

(See Attached Paper For
 Additional Defendants)

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes ☐ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A

2. Court (if federal court, name the district; if state court, name the county): N/A

3. Docket or Index Number: N/A

4. Name of Judge to whom case was assigned: N/A

5. The approximate date the action was filed: N/A

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. N/A

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

N/A

By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☒ plaintiff

☐ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☒ No ☐

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): Jessie Engles[#] DIN[#] 09A0673

Defendant(s): C.O. Tervares, et al

2. District Court: Southern District of New York

3. Docket Number: 09 CV 610

4. Name of District or Magistrate Judge to whom case was assigned: (R.J.S.) (HBP)

5. The approximate date the action was filed: Feb. of 2009

6. What was the disposition of the case? (Settled)

Is it still pending? Yes ☐ No ☒

If not, give the approximate date it was resolved. MARCH 2011 it was settled.

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

N/A

By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

By court for failure to exhaust administrative remedies;

By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

plaintiff

defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) _____,
 defendant (give the name and position held of each defendant involved in this incident) _____

did the following to me (briefly state what each defendant named above did): _____

See Attached
 Statement of Facts
 All 70P7 pages

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes _____ No If yes, what was the result? It was denied
because it is not made to support or reprimand an Adversed party in an Assault.
 Did you appeal that decision? ☒ Yes _____ No If yes, what was the result? It was denied, but
was [REDACTED] Noted for the records.

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: I did exhaust all my
Administrative Remedies to IGRC first, then to the Superintendent, then
to CCRC, but I do not have copies of any grievances nor the responses
because they were destroyed with all my other personal property on or about 4-20-13
but all documents was preserved by the Departmental Facility & can be obtained by
discovery. (See Attached Sworn Affidavit here to)

A. SECOND CLAIM: On (date of the incident) _____,
 defendant (give the name and position held of each defendant involved in this incident) _____

"Statement of Facts Attached"

1) ON or About June of 2010, through 8-28-2010 Plaintiff was subjected to harrasment & other misconduct by employees acting under color of Law, under the New York State Department of Corrections And Community Supervision AS stated below.

2) On August 16, 2010, Plaintiff began to experience suicidal ideation AS A result of prison officials harrasment & misconduct From June of 2010 - to - 8-28-2010.

3.) Also, on August 16, 2010, Plaintiff informed Correction Officer P. Harrison, Correction Sergeant Eric Morton & Correction Lieutenant Labac of My Above Suicide facts.

4) Despite being informed by Plaintiff just minutes during their rounds of Plaintiff suicidal & lethality risk, C.O. P. Harrison issued Plaintiff a razor which Plaintiff did subsequently utilized in A serious Attempt to end his life to escape the harrasment & misconduct State Above.

5) Plaintiff complied with All prison staff direction, when order to leave his cell to receive Acute Medical care by Sgt. Eric Morton for his Slit wrist.

6) Plaintiff required outside Medical Attention to treat the wound on his wrist.

7.) As A result of extreame bloodloss (AS Stated in the Memorandum dated 8-16-10 by C.O. Cse, w to Lt. Labac) AND ASSOCIATED weakness, Plaintiff fell to the Floor on the two OCCASSIONS AND WAS UNABLE to muster the strenght to walk, let alone offer resistance or become combative After exiting the cell in cuff For Medical treatment.

8) Plaintiff was fully shackled (waist chain and cuffed together & legs shackled together) & placed on a stretcher and pushed to the nursing clinic by Sgt. E. Morton, C.O. T. Hill, C.O. E. Farley, C.O. R. Hardy & C.O. E. Parish where they all used excessive force by assaulted me by hitting me in my head, ribs, private parts, back, etc, while still on the stretcher, while two of those officers listed above held me down. C.O. T. Hill had also pulled my fingers apart until my hand snapped & broke.

9) regardless of the facts stated above, the C.O.'s listed above in pertinent part, exploited the Plaintiff condition by committing assaulted & battery against me by using excessive force where force was not needed, nor necessary due to me being fully shackled, nor did I hit or attempt to hit any of those above listed officers.

10) As a result of the assault, plaintiff sustained a fracture metacarpal, contusion to head, hands, wrist, back, chest & pain & swelling testicular and psychological as well as emotional harm & trauma, and includes flashbacks, nightmares & panic attacks, because this is not the first time Plaintiff has been wrongfully abused or assaulted by prison officials in general.

11) video coverage of the incident recapped will clearly demonstrate that Plaintiff was passive during the entire series of events, and did not become combative or offer resistance at any time.

(Page 2 of 7) 12) The Plaintiff was assaulted in front of both Sergeants, Sgt E. Morton & Sgt. J. Jones and they did nothing to stop their subordinates

~~1. [REDACTED]~~ from ASSAULTING me, which CO. T. Hill, E. Farly, Jeffrey Cavalluzzi, E. Parish and CO. R. Hardy All did when they pushed me into the medical clinic of Five Points.

13.) Sgt. Jerry Jones did threatening me After those officers finished Assaulting me with serious physical injury & death if I filed ANY grievance complaints, or tried to seek A redress in Court by filing A Lawsuit on 8-16, 2010.

14) ON 2-3-2011, on the 3:00 PM - to - 11:00 PM Shift I was verbally threaten Again by Sergeant J. Jones. And he had stated in sum, "Get the fuck go!" "Don't think I'm not aware that you filed A grievance regarding the 8-16-10 incident, You think you was slick by not mentioning any names, but if you try to file A Lawsuit Against us, your stay here won't be nice. You will find yourself really hurt the next time Around, & you won't be transferred out the facility, nor will you get out of the "SHU" for a long time if you try to fuck me over. But if you don't fuck with me, or don't give any of my officers any problems, you don't have anything to worry about. Then Sgt. J. Jones walked off the company. This incident took place in 12 Block A2 Company and my next door neighbor witness everything. His name is SEAN Benton D.N. # 08B1260.

15) I did file A grievance complaint regarding Sgt Jones verbal threats ON 2-3-2011 ON 2-10-2011 before being transferred out the facility. AND After receiving no response, I Appeal it to the Superintendent then to the Commissioner. ON or About 5-3-11, the Commissioner responded back to my grievance Appeal AND informed me to file Another grievance concerning (Page 30 of 37) that issue because my first one was never processed or record, So I filed Another one requesting it be filed

AS A late grievance in accordance with departmental directive 4040. with no further action being taken.

16) Nurse Norma Leone, had falsified my injury report form, by documenting on paper that I received no injuries. In regards to the officers use of force on me on 8-16-10 incident, in an attempt to cover up these prison officials actions. Yet, she later testify on the Hearing Disciplinary record that she witness the above stated prison officials assault & hit me while I was fully shackled in the medical clinic, which caused the injuries to my head, back, private parts, swelling & fracture hand, etc.

17) Plaintiff was placed in an observation stripped cell shortly after returning from the Out Side Hospital, after being treated for his injuries, at Five Points Corr. fac. city on or about 8-17-2010 - to - 8-28-10

18) From 8-17-2010 - to - 8-28-10, Plaintiff was in a deep depressive state of mind, and was receiving his religion RAMADAN Meals during his fast. But after 3 days the prison officers assigned to my suicide watch began to deny me my Religion MEALS for over seven days straight, no, Breast Fast, Lunch, or Dinner until I was transferred and admitted to Central New York Psychiatric Center on or about 8-28-10.

19) ON 8-28-2010, upon being admitted to a Mentally ill Hospital which is C.N.Y.P.C. Plaintiff was examined by a Medical Jane Doe Nures, & pictures was taking of all my injuries upon admission. The Jane Doe Nures stated I could not have a splint, which was order by the outside Medical Doctor for a number of weeks

follow by other treatments, which she took off my hand, and away from me.

20) From 8-28-10 - to - 12-10-2010 I was being detain at Central New York Psychiatric Center, and was not allow to have a splint on my hand, nor was a cast place on my hand to prevent it from being re-injured or to help it heal properly. which caused Plaintiff pain when he was asleep, or accidentally bumped into by other peers. which placed Plaintiff in substantial harms way, and denied plaintiff Adequate medical Attention.

21) Plaintiff did file a grievance with the IGRC Office at Five Points Corr. facility while he was at C.N.Y.P.C. within the 21 days after incident happen in according to Dept. directives 4040, and he did file a notice of intention with the Attorney General Office within 90 days of the incident.

22) Shortly after returning to the New York State, Department of Corrections & Community Supervision A Disciplinary Hearing was conducted in regards to 8-16-2010 incident. where Plaintiff was not provided with a fair & impartial Hearing officer, and he was denied basic rights at hearing which he objected to & preserved for Appeal grounds within 30 days of the completion of such hearing. Plaintiff was denied rights to call certain witnesses & was never provided any witness refusal forms, Plaintiff pointed out how all to & from / Memorandum forms submitted by all prison officials involved all contradicts each other, and that they was indeed falsified to try and justified these Prison Officials Action. Yet, I was still found guilty with no substantial Proof, which I Appealed.

23) At the time of the incident, before the incident, and after the incident, Plaintiff was a Mental Health patient with a serious Mental illness, that was suppose to be receiving care & treatment in the (S.T.P.) Special Treatment Program, and was later placed into a (RMH) Residential Mental Health Unit, where he was being Harassed by Prison officials which provoked his Suicide Attempt, & depression.

24) Plaintiff complained to OMH Counselors about the Harassment, & Misconducts by Prison officials, Flash Backs, & Panic Attacks that he is experiencing due to these Assaulted incidents by prison officials which are an Abuse of their Authority, and nothing were done about it.

25) This claims Alleges Violations of the Plaintiff rights to be free from cruel & unusual punishment, the right to seek redress through grievances, or state or federal Courts, & the freedom to practice religion belief in according to the 1st Amendments, and the 14th Amendments to be provided with basic rights at a Disciplinary Hearing, which not only violated Correction Laws but also the Facilities Directives for DOCS of N.Y.S.

26) Plaintiff is suing these above defendants in their official & or individual Capacities & seeks for these prison officials to be stripped of their positions for the violation of the above 3 US constitutional rights, and to be provided with One Million compensatory damages & \$500,000, Punitive damages.

- Continue on the next page - (page 6 of 7)

27) Plaintiff also request AN Injunctive AND or Declaratory relief, seeking that these above listed defendants be held liable in their official capacities because 1) These defendants has over 5 plus years on the job, AND has receive further training to know how to handle deal with mental Health prisoner, use of force, extractions, etc type of predicaments due to prior civil suits won before the Courts, yet they still disregard the correct procedures & knowledge that they WAS forewarned about which is AN Abuse of their Authority, AND which should automatically grant consent to civil suit, because they continue to disregard such Law. Thus should automatically be consider AN express Statutory waiver of immunity in accordance to the 11th Amendment of the U.S. Constitution. 2) Furthermore, when a decision is made to settled any claim before a federal or state Courts, or a ruling is made during trial that compensatory damages should be awarded, the state or city is the one the cover such expenses through tax payers hard earned money, AND not coming out of the individual pocket / paychecks that caused the action, which still means the state is still being held liable for its staffs actions, & 3) By holding these officers liable in their official capacities, for the above grounds, will set the precedent for future claims that will hold their officers that the state employed fully responsible for their actions by seeing that any claims won, or settle comes directly out their checks & funds, which will in turn make officers think twice about abusing their Authority, because the state tax payers are not paying their debtor or wrongful deeds.

I declare, under Penalty of Perjury that the foregoing is true & correct to my knowledge. Dated: 6-9-14
Sworn to before me this

10 day of June 2014

Sincerely

Jessie Engle
Plaintiff/Prosc

SWORN AFFIDAVIT

1.) I, (Jessie Engles), am the Plaintiff in the 42 USC § 1983 Complaint filed before the Federal Courts under Docket # J. Engles v. Jerry Jones, et al 13-cv-6461 (C.J.S.), Western District Court of New York, and I am over the Age of 18 years old.

2.) I AM currently being incarcerated at the below Address: Five Points Correctional Facility, P.O. Box #119, Romulus, N.Y. 14541, and I make this Sworn Affidavit in support of my Amended Complaint, Attached hereto for the following Reasons:

3.) ON or About July 21, 2013, I filed a property Claim (Claim # 430-0038-13) Form when Wende Corr. Fac. informed me that two property bags were missing, which had contained over A 1000 pages of Legal work documents, Books & Magazines, pictures, etc & was wrongfully lost and destroyed. I did Appeal such claim all the way, and is currently litigating it before the N.Y. Court of Claims under Docket # Jessie Engles v. New York State #123727.

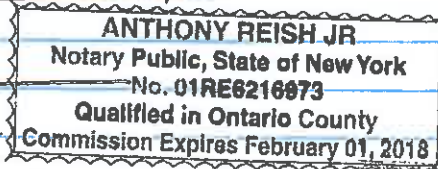
4.) None the Less, Copies of my Grievances, its Appeals and responses there of, Along with copies of my use of force reports, To & From Memorandum, Ticket Reports & Disciplinary Hearing Disposition & Copies of my Appeals to such 8-16-10 incident regarding incident were All destroyed along with such property.

Sincerely
But I will be able to obtain more copies through Fed. C.V.R.P § 34 Discovery to my indigent status. So, I can't Submit copies of ANY Grievance with my Amended Complaint

Sworn to before me this

12 day of July 2014

Notary Public



did the following to me (briefly state what each defendant named above did): _____

See Attached
Statement of Facts
All 70 of 7 pages

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes _____ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes _____ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Plaintiff seeks A redress before the Courts ordering that the defendants violated his 1st, 8th & 14th Amendments as stated herein, and to be awarded such COMPENSATORY damages of 1 million \$, Punitive damages of \$500,000.

Do you want a jury trial? Yes ☒ No ☐

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 6-9-2014
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Jessie Engle

Signature(s) of Plaintiff(s)

Sworn to before me this
10 day of June 2014

Joel Jeneault
Notary Public

JOEL JENEULT
Notary Public, State of New York
Qual in Ontario Co. No. 013E6151431
My Commission Expires Oct. 6, 2014

RECEIVED

Jessie Engles #09A0673
Five Points Correctional Facility
P.O. Box #119
Romulus, N.Y. 14541

United States District Court
Western District of New York
Rochester, N.Y. 14614-1363

Date: 6-12-2014

RE: Engles V Jones, et al
No. 13-CV-6461(C.J.S.)

Dear Hon. C.J. Siragusa,

Enclosed, you will find Plaintiff 1st Amended Complaint in accordance to the Federal Rules of Civil Procedures and as directed by the U.S. District Judge Mr. Charles J. Siragusa on May 22, 14. I also enclosed a sworn Affidavit in support of my reasons why I am unable to attached copies of my grievances & the responses thereof, along with this Amended Complaint.

Allow me to thank you in advance for your time, attention, and hopeful help in this herein matters.

cc: filed/SE.

Sincerely
Jessie Engles